..

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No. 20430 of 2005
Date of Decision : Oct. 27, 2006

Vishal and others

... Petitioners

Versus

The Haryana Financial Corporation etc.

.. Respondents

CORAM : Hon`ble Mr. Justice Jasbir Singh,
Hon`ble Mr. Justice Pritam Pal.

Present : Shri R.S.Mittal, Senior Advocate,
with Sudhir Mittal, Advocate,
for the petitioner.

Shri Kamal Sehgal, Advocate,
for the respondent-Corporation.

JASBIR SINGH, J. (Oral)

In this writ petition, challenge has been laid to the sale by way of auction of the land, which was earlier in the ownership of the petitioners.

Admittedly, Raj Kumar Ahluwalia, predecessor-in-interest of the petitioners, was a guarantor and he had mortgaged the property-in-dispute, by way of collateral security, to secure loan, disbursed by respondent No.1 in favour of M/s Marking Systems (I) Pvt. Limited. The said concern had become defaulter and the respondent-Corporation has

taken over symbolic possession of the property in dispute, by invoking provisions of Section 29 of the State Financial Corporations Act, 1951 (for short, "the Act").

It is primary contention of counsel for the petitioners that so far as the property of guarantor is concerned, it is not open to the Corporation to invoke the provisions of Section 29 of the Act.

We feel that argument advanced by counsel for the petitioners is not justified in view of ratio of Full Bench judgment of this Court in **Paramjit Singh Ahuja** v. **Punjab State Financial Industrial Development Corporation Limited and others** ***C.W.P. No. 5397 of 2003, decided on 18.10.2006.*** So far as dispute, as to whether the property is ancestral and coparcenary in nature or not is concerned, that cannot be gone into in writ petition, as the finding regarding that dispute can be given only after recording of evidence. Otherwise also, as the Auction Purchaser has not been impleaded as a party to the writ petition, no relief can be granted to the petitioner.

In view of the facts mentioned above, this writ petition stands dismissed.

[JASBIR SINGH]
JUDGE

[PRITAM PAL]
JUDGE

October 27, 2006
som